

DAK  
\$  
IMW  
A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/834,075 Confirmation No.: 2748  
Applicant: Masahiro Tanaka  
Filed: April 12, 2001  
TC/A.U.: 2811  
Examiner: Cuong Quang Nguyen  
Docket No.: 075834.00067  
Customer No.: 33448

**PETITION TO SHOW TIMELY FILING**  
**AND ALTERNATE PETITION TO REVIVE**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S I R:

Applicant hereby petitions to have the Notice of Abandonment withdrawn in the above-referenced United States patent application because the Notice was erroneously transmitted as confirmed by the facts and circumstances set forth below.

The Examiner transmitted a Notice of Abandonment on January 29, 2004 based on a purported failure to submit a timely response to the Office Action mailed July 18, 2003. The July 18, 2003 office action was a final office action that asserted new prior art as grounds for invalidating only claims 1 and 20. The Examiner also maintained the allowance of claims 5-10 and 12-15. The Examiner also indicated that claim 11 would be allowable if it were modified as suggested by the Examiner in order to overcome the Examiner's rejection under section 112.

Contrary to the assertions in the Notice of Abandonment, the facts detailed below confirm that the office did actually receive a response that was timely filed and which placed all claims in condition for allowance by cancellation of the only rejected claims and which modified claim 11 as suggested by the Examiner to make it allowable. Accordingly, Applicant requests that this petition be granted and a Notice of Allowance be transmitted for this application.

The undersigned has enclosed a copy of the complete original response transmitted via certificate of mail on December 18, 2003 along with a petition for extension of time and a check to cover the requisite extension fee. A copy of the stamp received postcard dated December 29, 2003 is also enclosed as well as a copy of the canceled check for the extension fee. These documents confirm both transmission and receipt in the office of the original response. The originally submitted documents also included authorization for the office to charge any additionally required fees to the deposit account. However, it is not believed that any additional fees were or are now required. Applicants submit that there is no fee for the instant Petition.

Accompanying the original Amendment was a check payable to "Commissioner for Patents" in the amount of \$420 for the requisite fee, A Transmittal Cover, a Fee Transmittal for FY 2004, and a receipt post card. The receipt post card was stamped by OIPE on December 29, 2003 as having received the aforementioned documents and returned to Applicant's attorney. A copy of the documents filed December 18, 2003 and the stamped receipt post card are attached hereto. As noted, a copy of the canceled check is also enclosed.

The undersigned also notes that shortly after the Notice of Abandonment was received, the undersigned personally contacted the Examiner via telephone to explain that the Notice of Abandonment was erroneously transmitted and that a response had actually been transmitted which placed the application in condition for allowance. It is the recollection of the undersigned that the Examiner stated he would order the file and that a Notice of Allowance would be transmitted upon his receipt of the submitted documents. The undersigned also understands that the attached documents except for the cancelled check were transmitted by fax informally to the Examiner's attention at that time. More recently, attempts at contacting the Examiner have been unsuccessful and it appears that the Examiner may have left the office.

In light of the foregoing, the undersigned states that the Notice of Abandonment for the above referenced United States patent application was transmitted in error and a Notice of Allowance should now be transmitted in response to this petition.

App. No. 09/834,075

Petition to Show Timely Filing dated December 20, 2004

If there is some other reason for the abandoned status of the application which can not now be discerned by the undersigned, Applicant requests that this petition be treated as a petition to revive the application and petition for a Request for Continued Examination. The undersigned authorizes any required fees to be charged to deposit account 50-1794

Respectfully submitted,

Date: 12/20/04

   
(Reg. #37,607)

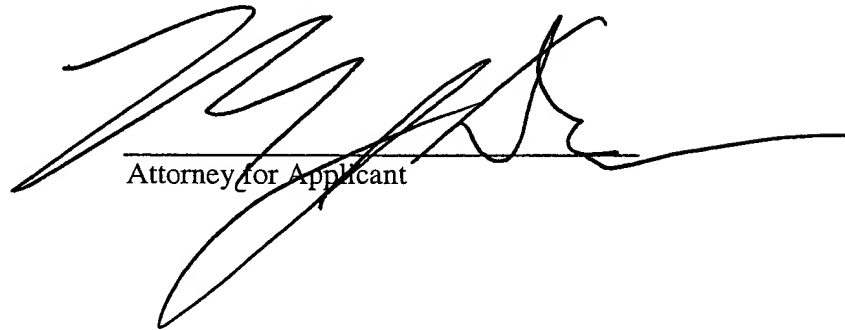
Robert J. Depke  
**HOLLAND & KNIGHT LLC**  
131 S. Dearborn, 30<sup>th</sup> Floor  
Chicago, Illinois 60603  
Tel: (312) 263-3600  
**Attorney for Applicant**

App. No. 09/834,075  
Petition to Show Timely Filing dated December 20, 2004

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States  
Postal Service as First Class Mail on 12/20/04, in an envelope addressed to:

**Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

  
\_\_\_\_\_  
Attorney for Applicant

COMMISSIONER FOR PATENTS  
P.O. BOX 1450, ALEXANDRIA, VA 22313-1450



SIR:

PLEASE APPLY A RECEIPT STAMP HERETO AND MAIL TO  
KNOWLEDGE RECEIPT OF THE ATTACHED:

Masahiro Tanaka



APPLICANT

Transmittal Form, Fee Transmittal FY  
2004, Amendment B, Check \$420

TYPE OF DOCUMENT(S):

December 18, 2003

09/834,075  
075834.00067

MAILING DATE

REFERENCE NUMBER

HOLLAND & KNIGHT LLC

Date paid : 01/07/2004  
Volume ID : 20040202014901

000004 2000

⑆0310000114  
NACHOVIA BANK NA SVC-071  
PHILADELPHIA PA 01072004  
7511145473